

## **REMARKS**

Applicants would like to thank the Examiner for the careful consideration that he has given to the present application. The present application currently has claims 25-30 pending. The application has been carefully reviewed in light of the Office Action. Applicants respectfully submit that the claims are patentable over the cited references for at least the reasons set forth below. Applicant would like to request reconsideration of this application.

### **Claim Rejections – 35 U.S.C. 103**

The Examiner has rejected claims 25 and 28-30 under 35 U.S.C. 103(a) as being unpatentable over applicants admitted prior art in the specification page 1, lines 10-27 and page 2, lines 10-14 in view of Nervig (U.S. Patent No. 3,612,292) and Teter et al. (U.S. Patent No. 6,112,665). Applicants traverse this rejection.

In order to establish *prima facie* obviousness of a claimed invention, *all the claim limitations* must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974). The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). However, Applicants do not believe that all of the claimed elements have been disclosed or are suggested by the cited references.

The Examiner states that Applicants' admitted prior art discloses the idea of placing paint chips in a rack, the idea of using paint chips with a plurality of colors on a single card and the idea of covering a paint chip with a single color. The Examiner further states that Applicants' prior art discussion does not disclose whether the display rack includes a wall that covers a chip section and the idea of placing perforations in the card to form a paint chip section. The Examiner has combined Applicants prior art statement with the teachings in Nervig and Teter to make the instant rejection. Applicants do not believe that independent claim 25 is obvious in light of the cited references. Moreover, all of the claims depending from claim 25 also cannot be obvious, for at least the reason that claim 25 is not obvious.

With respect specifically with the Examiner's combination of Nervig with Applicants prior art discussion, the Examiner states that Nervig includes dividers that can be adjusted

longitudinally and cannot be removed by unauthorized personnel (Nervig, column 1, lines 55-58). The Examiner goes on to state that the wall of Nervig is substantially the same as the structure being claimed by Applicants and would therefore be capable of covering and protecting chip sections from being grabbed by a consumer.

Applicants respectfully disagree with the Examiner's interpretation of the Nervig reference. Initially, with respect to the Examiner's statement that the dividers 12 can be adjusted longitudinally and cannot be removed by unauthorized personnel, the dividers, as they are described in Nervig, have no bearing and functionally serve a different purpose than that of preventing accidental removal of a perforated chip section. Nervig's dividers 12 function to maintain greeting cards and other stationery items in an orderly arrangement. In placing the dividers onto the display unit, a divider is slid downward so that it engages the upper edge 22 of the wall 16 and passes into the recess 20. Upon such engagement, Nervig appears to contemplate that the movement of the divider is limited and thus, cannot be removed by an unauthorized user (column 3, lines 8-27) and, accordingly, maintains greeting cards in an orderly fashion stacked behind one another. Nervig does not contemplate any relationship between the length or placement of the wall 16 and the greeting cards that the troughs 10 are intended to hold. As such, Nervig does not disclose or contemplate that the wall must include the element that is recited in Applicant's claim, namely that the perforated area of the color card is covered by the wall in order to prevent a consumer from grabbing the chip section. Nervig appears to contemplate use of the dividers to maintain the spatial relationship between the cards inserted into a trough so that the cards are neatly stacked behind one another. In reference to Figure 1 of Nervig, Figure 1 does not suggest that use of the display device and placement of the walls will prevent dislodgement of a chip section from a paint color card. Applicant's display device, as shown in its figures, does include dividers in order to maintain organization of the color cards placed in the individual display pockets. Although that element is common to Nervig and Applicant, it does not further lend to the conclusion that Nervig discloses or suggests the additional element that the front wall covers the chip section of a color card.

Furthermore, the Nervig and Teter references teach away from their combination with one another. The Teter color card is a blank that can be used to generate swatch cards. These swatch cards are multiple color swatch cards, with a perforated area in each colored section that defines a hole. It is inconsistent to utilize the Teter swatch card within the display case disclosed by Nervig. Because the colored sections of the Teter reference extend the height of the color swatch, only by having the front wall of the display unit extend almost the height of the color swatch could one hope to prevent a consumer from grabbing a perforated section. Nervig does not disclose or contemplate that the height of the wall extends to cover the greeting cards held in each trough (i.e., Nervig does not disclose or contemplate that the height of the wall extends almost the height of the greeting card). To the contrary, the figures of Nervig, as well as the intended use of the display unit to house greeting cards, suggest that it is desirable for the wall 16 to extend only a fraction of the height of the housed greeting cards so that the card can easily be viewed prior to being picked up by a consumer, and that it would not be desirable to cover the greeting card to prevent a consumer from being able to view it in part prior to removing it from the display unit. In sum, there is nothing in the Nervig or Teter references to suggest that the Nervig wall 16 must be high enough to partially cover the topmost perforated section in the topmost colored section of the Teter color swatch. Accordingly, the Nervig and Teter references do not suggest any desirability or compatibility with one another and appear to teach away from one another. Moreover, Teter describes as its only method for display that the swatch cards may be assembled into a fan deck, and it does not disclose or suggest that the swatch cards can be displayed in any type of display unit. For the foregoing reasons, not only are all of the claimed elements disclosed in the cited references, but it also appears inconsistent to combine the Nervig and Teter references and therefore, Applicants claimed invention is not obvious.

As presented previously, it is also not appropriate to combine the Teter reference with Applicant's prior art statement. The Teter color swatch is exactly the type of color card that Applicant has referenced as being undesirable – a conventional color card with a multitude of colors. Applicants have specifically stated that there are many deficiencies with the use of conventional color cards that exhibit numerous colors (see Specification page 1, line 28 *et seq.*). One deficiency that Applicants have referenced is that the human eye tends to blend colors together when the colors are presented such as they are on a conventional color card of multiple colors. Additionally, the intensity that is imparted to a specific color is not as apparent on a

conventional color card as would be on a larger surface, such as a single-color color card. The distinctions pointed out between single-color and multiple-color color cards, and Applicants teaching of the undesirability of using a multiple-color color card, in fact teach away from any combination of a single-color color card with a multiple-color color card reference, whether or not such multiple-color card reference includes perforated sections. Accordingly, there is no suggestion or motivation to combine a reference that teaches a multiple-color color card, such as Teter et al. with a teaching of a single-color color card.

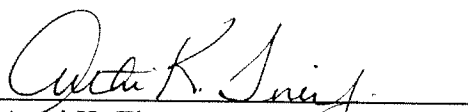
For the foregoing reasons, Applicants do not believe that the cited references disclose all of the claimed element of Applicants' claim 25. Furthermore, it is not obvious to combine the cited references, and thus, Applicants' claim 25 is not obvious. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending from the independent claim is also nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Because Applicants do not believe that claim 25 is obvious in light of the cited prior art, claims 28-30, as well as any other claims depending from claim 25, should also not be obvious.

With respect to claims 26 and 27, Applicants traverse this rejection. As Applicants have stated above, independent claim 25 is not obvious and, thus, claims 26 and 27, which depend from claim 25, are also not obvious.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. Applicants appreciate and once again thank the Examiner for his review of the subject application.

Respectfully submitted,  
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